

**Amendments to the Drawings**

Figure 1 (as amended): "Input/Output Devices" labeled with reference character "114".

Figure 4 (as amended): "Client Territory Alignment File (where applicable)" labeled with reference character "416".

Amended drawing sheets reflecting such changes are enclosed herewith for approval by the Examiner.

**REMARKS**

Claims 1 through 18 are pending and have been examined. Claims 1 - 11 were rejected under 35 U.S.C. 101 because the claimed invention was allegedly directed to non-statutory subject matter. Claims 1-18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Felthaus et al. (U.S. Patent 5,420,786) in view of Berne (Berne, Supply Chain Savvy, Food Engineering, 1 August 1999 [GOOGLE]).

The Applicant hereby amends claims 1 - 11 to more explicitly claim certain features that were implicitly present in these claims prior to their amendment. No new matter has been added.

In view of the Applicant's claim amendments, and the remarks set forth below, the Applicant respectfully requests reconsideration of the above-described claim rejections.

**Objections to the Drawings**

In paragraphs 2 through 4 of the Office Action, the drawings were objected to because of alleged non-compliance with various portions of 37 CFR 1.84. The Applicant has amended the drawings and the disclosure, where appropriate, and respectfully requests that the objection to the Drawings be withdrawn.

**Objections to the Specification**

In paragraph 5 of the Office Action, the disclosure was objected to because of various informalities. The Applicant has amended the disclosure as suggested by the Examiner, and respectfully requests that the objection to the Specification be withdrawn.

Claim Rejections Under Section 101

In paragraph 6 of the Office Action, claims 1 - 11 were rejected because the claimed invention was allegedly directed to non-statutory subject matter. While Applicant disagrees, Claims 1-11 have been amended to obviate this objection.

As amended, claims 1 - 11 now recite a computer programmed to perform the recited method steps, thereby clearly placing the claimed invention within the technological arts. Accordingly, Applicant respectfully requests that the rejection of these claims under Section 101 be withdrawn.

Claim Rejections Under Section 103

In paragraphs 7 and 8 of the Office Action, claims 1 - 18 were rejected as being unpatentable over Felthausen et al. in view of Berne. Reconsideration of this rejection is respectfully requested.

It is axiomatic that to establish a *prima facie* case of obviousness under Section 103, the reference or combination of references cited by the Examiner must disclose or suggest each and every limitation of the rejected claims.

The Examiner alleges that it would have been obvious to one of ordinary skill in the art to include wholesale purchasing data of Berne with the teachings of Felthausen since Felthausen teaches estimating sales activity of a product. However, neither reference, neither alone nor combined, teaches or suggests estimating sales activity of a specialty product, that is a product which has neither a broad usage base nor a consistent distribution pattern. The present invention

provides a method and system for estimating retail sales for products in specialty markets.

Specialty markets, as defined in the specification (p. 4, lines 5-8), are products which have a specialized usage base, i.e. specialized consuming population (*e.g.*, HIV or Alzheimer patients), or products which require special handling (*e.g.*, refrigeration). Many assumptions established for broad market estimating are not applicable for estimating the sales volume of such specialty products.

Felthausen teaches estimating sales activity of a product by determining the distances between first sales outlets from which sales activity data are obtained (i.e. sampled outlets) and other sales outlets (i.e. unsampled outlets) according to the determined distances between the first and other sales outlets. (Felthausen et al. col. 2, lines 51-58). In other words, Felthausen teaches a method for estimating sales activity of a product at an unsampled retail sales outlet using sampled outlets and the distances between the sampled and unsampled outlets. This is an appropriate method for estimating the sales activity of a product which has a broad usage base and a consistent distribution pattern. However, Felthausen's method is not appropriate for estimating sales activity of a specialty product. As such, Felthausen fails to disclose or suggest several limitations of the rejected claims.

With respect to Claim 1, Felthausen does not teach or suggest defining a first product specific universe using wholesale purchasing data to determine a product specific store size for a first plurality of retail outlets. As the Examiner noted in the Office Action on p. 10, Felthausen does not disclose using wholesale purchasing data. Thus, Felthausen cannot be read as teaching or suggesting the step of applying geo-spatial projection to the first product specific universe and the second product specific universe to determine product specific projection factors for retail outlets in the first and second universe. In other words, since Felthausen does not teach using

wholesale purchasing data to define a product specific universe, it cannot teach applying geo-spatial projection to that universe, combined with a second product specific universe, to determine the desired projection factors. Furthermore, since Felthausser fails to teach the step to determine the product specific projection factors by applying geo-spatial projection to both the first and second product specific universes, it also fails to teach applying those product specific projection factors to sampled retail sales data for the product to estimate the sales of said specialty product in unsampled outlets.

Similarly with respect to Claim 7, Felthausser does not teach or suggest determining a product specific store size for a first plurality of retail outlets using wholesale sales data. As the Examiner noted in the Office Action on p. 10, Felthausser fails to teach using wholesale purchasing data. Thus, Felthausser must also fail to teach or suggest applying geo-spatial projection to the first plurality of retail outlets to determine product specific projection factors for which sampled retail sales data is available. In other words, since Felthausser fails to teach using wholesale purchasing data to determine a product specific store size, it cannot teach applying geo-spatial projection to that universe to determine the desired projection factors. Finally, since Felthausser fails to teach the step to determine the product specific projection factors for the first plurality of retail stores, it also fails to teach applying those product specific projection factors to sampled retail sales data for the product to estimate the total prescriber activity in a region of interest.

The above failures of Felthausser are not cured by applying the Berne article. While the Berne article may disclose certain supply chain solutions, including methods to measure product shipment to retail stores using wholesale purchasing data, Berne fails to teach a method or system for using that wholesale purchasing data combined with sampled retail sales purchasing

data in order to produce estimates of sales activities for specialty products. Berne fails to provide a method for estimating specialty products.

Berne in light of Felthausen also does not teach estimating sales activities of specialty products. Combining the two references still fails to teach or suggest a method and system for using wholesale purchasing data in combination with sampled retail sales data in order to estimate sales activities of specialty products. Furthermore, there is no reason one of ordinary skill in the art would combine those two references in order to practice the method and system of the present invention.

For at least the reasons set forth above, Berne in light of Felthausen does not teach or suggest Claims 2-6, 8-11, and 12-18, which depend from claims 1 and 7.

The Applicant thus respectfully submits that the Office Action does not establish a *prima facie* case of obviousness with respect to claims 1 - 18, and that thus the rejection of these claims should be withdrawn.

### CONCLUSION

For the reasons set forth above, applicant respectfully submits that this application is now in condition for allowance. Reconsideration and prompt allowance are respectfully requested.

Respectfully submitted,

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